

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EVERY CAMILLE FREEMEN-WHEATON.

Plaintiff,

V.

TEXACO CORPORATION, CITY OF
OLYMPIA, THURSTON COUNTY, AND
KWANG SOO HONG,

Defendants.

CASE NO. C13-6028 RBL-JRC

REPORT AND RECOMMENDATION

NOTED FOR: FEBRUARY 14, 2014

This matter has been referred to the undersigned Magistrate Judge pursuant to Title 28

U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Rules MJR 1, MJR 3, and MJR 4. The

matter is before the Court for initial review prior to ordering service of the complaint (ECF No.

1)

On December 3, 2013, the Court sent plaintiff a letter outlining the defects in his action (ECF No. 3). Plaintiff had not paid the filing fee or filed an application to proceed in forma pauperis. The Clerk's Office gave plaintiff until January 3, 2014 to cure the defects in his filings.

1 Plaintiff has not cured the defects or paid the filing fee. The Court recommends dismissal
2 of this action without prejudice pursuant to Fed. R. Civ. P. 41(b). Fed. R. Civ. P. 41(b) states:

3 If the plaintiff fails to prosecute or to comply with these rules or a court
4 order, a defendant may move to dismiss the action or any claim against it. Unless
5 the dismissal order states otherwise, a dismissal under this subdivision (b) and any
6 dismissal not under this rule--except one for lack of jurisdiction, improper venue,
7 or failure to join a party under Rule 19--operates as an adjudication on the merits.

8 Plaintiff has failed to prosecute his action by not paying the filing or moving to proceed
9 in forma pauperis. Because the action has not been served and defendants have not appeared the
10 Court recommends that the dismissal be without prejudice.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
12 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.
13 6. Failure to file objections will result in a waiver of those objections for purposes of de novo
14 review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit
15 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on
16 February 14 2014, as noted in the caption.

17 Dated this 23rd day of January, 2014.

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J. Richard Creatura
United States Magistrate Judge